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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,018	02/05/2004	Ward Myers	H61.12-0001	5327

7590

05/20/2005

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EXAMINER

PRICE, RICHARD THOMAS JR

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/773,018

Applicant(s)

MYERS, WARD

Examiner

Thomas Price

Art Unit

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider et al (US Patent 6,554,149) in view of Sherrard (US Patent 5,423,611).

Schneider et al teaches a collapsible container with a durable bottom shell that is structurally similar to the Applicant's claimed container having a top wall, bottom wall and sidewall. The sidewall is flexible extendible between a collapsed state and an erected state. A spring is supported by a spring disposed therein. The container is used to store a variety of materials. However, Schneider et al do not specifically discuss storing animal feed within the distended container nor placing a removable moisture barrier within the container.

Sherrard teaches a reinforced bag-like container having a removably attached moisture barrier placed within a container. Regarding claims 1 and 5, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the container of Schneider et al with a removable moisture barrier, in view of the teachings of Sherrard, in order to keep the container contents from leaking out of the container. Further regarding claim 1, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to place a material, such as animal food placed

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into the combination of Schneider et al as modified by Sherrard, in order to preserve the food between feedings. Regarding claims 2 and 3, the combination, of Schneider et al. as modified by Sherrard, can be collapsed by pressing down on the sidewall against the spring. In regards to claims 4 and 8, the combination container is maintained in the collapsed state by elements 64 and 66. Regarding claim 5, to provide a plurality of containers is considered to be obvious to a person of ordinary skill in the art at the time the invention was made in order to store a variety of materials separate from one another. In regards to claims 9 and 11, it would have been obvious to provide the container of Schneider et al with a removably attached moisture barrier using Velcro fasteners, in view of the teachings of Sherrard, in order to firmly attached the liner within the container such that it does not move during use. As for claims 10 and 12, the reference to Schneider et al teach a zipper for securing the top to the sidewall.

Response to Arguments

Regarding the argument concerning the use of a removable moisture barrier, this new claim limitation reads over the prior art rejection of Schneider et al., however, this is believed to be a reason to warrant a new ground of rejection. See the rejection using the references to Schneider et al. as modified by Sherrard. Lastly, with regard to the contents of the container, the combination Schneider et al as modified by Sherrard is designed to hold a variety of materials, certainly animal food could be one of them. Further, the Applicant provides no discussion in the specification as to why animal food is critical to the invention, as opposed to other materials.

Response to Amendment

Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Summary: Claims 1-12 are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Price whose telephone number is 703-308-2694. The examiner can normally be reached on Monday through Friday from 8:30a.m. to 5:00p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas Price

Primary Examiner GAU: 3643

rtp